

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

August 21, 2003

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, August 21, 2003, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Bud Hentzen, Chair; Kerry Coulter, Vice-Chair; James Barfield (In @ 1:35); Bob Hernandez; John W. McKay Jr.; Bill Johnson; Morris K. Dunlap; Ronald Marnell; Elizabeth Bishop (In @ 1:33); M.S. Mitchell; Ed Sunquist; David Wells; Frank Garofalo. Ray Warren was not present. Staff members present were: Dale Miller, Current Plans Supervisor; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Jamsheed Mehta, Transportation Supervisor; and Rose Simmering, Recording Secretary.

1. Election of Metropolitan Area Planning Commission Chair and Vice-Chair.

HENTZEN This Item has been pulled, and no action will be taken today, per MAPC By-Laws, and elections will be held the first meeting in September which is September 4, 2003.

2. County Waste Water Management Plan, presentation by Susan D. Erlenwein, Director, Department of Environmental Resources

SUSAN ERLENWEIN, Director, Department of Environmental Resources, This is mainly a preliminary presentation. We are on the ground floor of developing a Waste Water Plan for the County. This kind of originated a year ago when the County was revising its Sanitation Code and the Kansas Department of Health and Environment, (KDHE), requested that the County prepare a Countywide Waste Water Management Plan. Since then the County has applied for a grant, and we received a \$27,000 dollar grant to help us in the endeavor. The State wants us to look at the incorporated areas where the water supplies are, how they deal with the waste water, and what the plans are in the future, and then they want us to look at the unincorporated areas and determine what suits those areas best: individual septic systems, lagoons, or do we need some new technologies for perhaps sensitive ground water areas. We are starting this year long process, and this will be going to Wichita Independent Business Association, and the Builder's Association and others to receive their input, and make sure we cover our bases. This is just a preliminary informational meeting, and I will be happy to take your comments and come back in the future as we go along, and develop this plan and keep you updated through this time.

MITCHELL Would it be possible to get a copy of the grant application, and any correspondence between the County and KDHE?

ERLENWEIN Absolutely, I will send the information to Mr. Schlegel.

SCHLEGEL What ways can members of the MAPC get involved with this plan?

ERLENWEIN You can help review the information as we gather it and give input within the scope of the plan. As cities annex areas, what we will be looking at is how they plan to service those areas that they are annexing.

3. Approval of MAPC meeting minutes August 7, 2003.

MITCHELL I have a correction on page 36, I did not oppose the substitute motion so the vote should be 7-4 on CON2003-26.

BISHOP Prior to the MAPC meeting I spoke with the Recording Secretary about corrections on page 17, Item 5. The vote should be 10-1, I opposed the motion.

MOTION: That the minutes for August 7, 2003 be approved with those corrections.

COULTER moved, **HENTZEN** seconded the motion, and it carried (12-0).

4. Consideration of Subdivision Committee Recommendations

4-1. SUB2003-62 – Revised One-Step Final Plat – THE ESTATES AT HOLLENBECK FARMS ADDITION, located on the east side of 143rd Street East and south of 13th Street North.

A. **City Engineering/Water and Sewer Department** needs to comment on the need for guarantees or easements. **The private sewer service line needs to be upgraded to public standards. A petition is needed. An off-site easement is also requested. A private easement is needed to cover an existing water service line across Lot 3 in the event it is not relocated to Reserve A.**

B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

- C. **County Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- D. The plat proposes two joint access openings along 143rd St. East including a joint access opening with the abutting property to the south. **The final plat tracing shall reference the dedication of access controls in the plat's text. The access controls are approved.**
- E. This plat has included a private drive to serve four lots which exceeds the three-lot limitation of the Subdivision Regulations. A modification by the Planning Commission is needed. **A modification has been approved.**
- F. The joint access openings shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- G. The plat's text shall note the dedication of the street to and for the use of the public.
- H. A covenant shall be submitted regarding Reserves A, B and C platted for private drive purposes, which sets forth ownership and maintenance of the private drives, and future reversionary rights of the reserve to the lots benefiting from the reserve.
- I. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. Per Sedgwick County Fire Department, access drives to any structures in access of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) To meet fire department specifications, the surface needs to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed.)
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- T. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- U. The applicant is reminded that a compact disk (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, GAROFALO seconded the motion, and it carried (13-0).

4-2. **SUB2003-57 – Final Plat – STONE POST FARM ADDITION, located on the southwest corner of 53rd Street North and 159th Street East.**

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. **County Code Enforcement** and **County Engineering** should comment on the acceptability of the proposed alternative sewage system for these lot sizes and the need for a restrictive covenant addressing maintenance. **The alternative sewage system is approved. A restrictive covenant will be needed regarding maintenance.**
- C. The site is currently located within the Butler County Rural Water District No. 5. If service is available, feasible and the property is eligible for service, **County Code Enforcement** recommends connection.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. **County Engineering** needs to comment on the status of the applicant's drainage plan. **Floodway language needs to be included on the plat. On Lot 3, Block 4, the drainage easement needs to be expanded on floodway to the south line of the lot. The drainage plan needs to show the size of the structure entering the lot for Lot 4, Block 4. On Lot 4, Block 4 the floodway reserve needs expanded to the cul-de-sac.**
- F. **County Public Works** will need to establish access control on some lots in the plat to prevent crossing of major drainage ditches.
- G. **County Engineering** recommends the drainage easements be relabeled as floodway reserves or drainage reserves. **The Subdivision Committee approved the use of floodway reserve easements subject to County Engineering's review of restrictive covenants. The plat's text shall also reference the maintenance responsibilities of these easements.**
- H. Provisions shall be made for ownership and maintenance of the proposed drainage easements. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, and who is to own and maintain the easements prior to the association taking over those responsibilities.
- I. In accordance with Access Management Regulations, complete access control is required for arterials intersecting with collectors and local streets. Complete access control of 150 feet is needed along Evening Shade from 159th St. East. Complete access control of 75 feet is needed along Morning View from 159th St. East.

Access controls have been platted as requested.

- J. The applicant shall guarantee the installation of the proposed streets to the 36' rock road standard for all cul-de-sacs. The guarantee shall include the installation of a temporary turnaround at the plat's south line and a temporary turnaround at the plat's west line.
- K. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted to have a wetland determination completed.
- L. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lot 2, Block 4. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. **The waiver has been approved.**
- M. **GIS** needs to comment on the plat's street names. **Shady Walk needs to be renamed.**
- N. Per Sedgwick County Fire Department, access drives to any structure in excess of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) The surface will need to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed.)
- O. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the County.
- P. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be

indicated on the face of the plat.

- Q. The Subdivision regulations discourage the inclusion of pipeline easements within the perimeter of residential lots. It is recommended that the pipeline crossing the south line of the plat be included within a Reserve, or in the alternative a restrictive covenant provided identifying the pipeline easement.
- R. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- S. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- T. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- U. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- V. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- W. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Z. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- AA. The applicant is reminded that a compact disk (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **GAROFALO** seconded the motion, and it carried (13-0).

4-3. SUB2003-16 – Revised One-Step Final Plat – EVERGREEN FOURTH ADDITION, located south of 29th Street North, west of Maize Road.

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering needs to comment on the drainage plan. An off-site drainage easement is needed. A guarantee is needed for drainage improvements.
- D. Traffic Engineering has approved the 58-ft width of Parkdale if restricted to No Parking on both sides of the street. A restrictive covenant shall be provided specifying this requirement.
- E. County Surveying advises that the temporary access needs located.
- F. Recording data is needed for the off-site easements in the event they are recorded prior to the plat.
- G. City Fire Department has requested a temporary 20-ft wide emergency access easement of AB-3 rock extending north to 29th St. North until the development of the second phase. The emergency access easement shall be established by separate instrument. The text of the instrument shall indicate the type of driving surface to be installed and address installation and maintenance. Standard gating and signing are required per City Fire Department standards.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves for the subsequent phase of development.

The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

- I. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- J. The applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of Parkdale.
- K. **GIS** needs to comment on the plat's street names. **The street names are approved.**
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- T. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy, SBC and Aquila request additional easements.**
- U. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **GAROFALO** seconded the motion, and it carried (13-0).

4-4. SUB2003-87 – One-Step Final Plat – RALPH REED ADDITION, located on the southeast corner of Harry and Greenwich Road.

- A. Municipal services are available to serve the site.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan.
- D. **Traffic Engineering** needs to comment on the access controls. The plat proposes one opening along Harry and one opening along Greenwich; in addition to a temporary opening along Greenwich. **The opening along Harry shall be along the east property line. The permanent opening along Greenwich shall be located along the south property line. The temporary opening along Greenwich is approved. Both permanent openings shall permit cross-lot access for the benefit of the abutting properties, if and when said properties are developed for non-residential uses. A restrictive covenant or agreement shall be provided addressing this condition.**
- E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.

- F. The platlor's text shall be revised to reference the contingent right-of-way being effective also upon the City determination of a need for the right-of-way for any street-related purposes.
- G. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- H. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- P. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Q. The applicant is reminded that a compact disk (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **GAROFALO** seconded the motion, and it carried (13-0).

4-5. Lot Depth to Width Ratio Modification for Lot Split No. SUB2003-85 – I-135 Power Center Addition.

This lot split request encompasses a 2.9 acre lot zoned LI, Limited Industrial. The maximum lot width to depth ration of 3 to 1 for non-residential lots is exceeded and a modification is requested. Planning staff is in favor of approval.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **GAROFALO** seconded the motion, and it carried (13-0).

4-6. DED2003-16 – Dedication of a Utility Easement for property located south of Central, west of West Street.

OWNER/APPLICANT: Richard and Sandra Ott, 11302 Lost Creek, Wichita, KS 67212

AGENT/SURVEYOR: Baughman Company, P.A., 315 Ellis, Wichita, KS 67211

LEGAL DESCRIPTION: That part of Lot 2, Block 10, Parkwilde Addition to the City of Wichita, Sedgwick County, Kansas, described as follows:

Commencing at the southwest corner of said Lot 2; thence easterly along the south line of said Lot 2, 141.00 feet to a point on the west line of a sanitary sewer easement (Misc. Book 457, Page 231); thence northerly along the west line of said sanitary sewer easement, 10.00 feet to the northwest corner of said sanitary sewer easement, and for a point of

beginning; thence easterly along the north line of said sanitary sewer easement, 59.00 feet; thence northerly parallel with the west line of said Lot 2, 10.00 feet; thence westerly parallel with the south line of said Lot 2, 59 feet; thence southerly parallel with the west line of said Lot 2, 10.00 feet to the point of beginning.

PURPOSE OF DEDICATION: This Dedication is a requirement of a Lot Split (Case No. SUB 2003-53) and is being dedicated for construction and maintenance of public utilities.

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **GAROFALO** seconded the motion, and it carried (13-0).

4-7. DED2003-18 – Dedication of a Utility Easement for property located on the northwest corner of Webb Road and 29th Street North.

OWNER/APPLICANT: K-96 and Webb Road Development, LLC, C/O Christian Ablah Classic Real Estate, 8200 E. 32nd Street North, Wichita, KS 67226

AGENT/SURVEYOR: AM Consulting, Inc., 142 N. Emporia, Wichita, KS 67202

LEGAL DESCRIPTION: The centerline of a 20-foot utility easement described as follows: Part of Lot 6, Block 3, Mediterranean Plaza Addition, Wichita, Sedgwick County, Kansas, described as follows:

Commencing at the southerly most corner of said Lot 6; thence N45°58'58" for a distance of 308.86 feet for a point of beginning; thence N39°25'33" east for a distance of 185 feet.

PURPOSE OF DEDICATION: This Dedication is a requirement of a Lot Split (Case No. SUB 2003-44) and is being dedicated for construction and maintenance of public utilities.

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **GAROFALO** seconded the motion, and it carried (13-0).

4-8. DED2003-19 – Dedication of Access Control for property located north of Orme and west of Gouverneur.

OWNER/APPLICANT: Roger Scholfield, Scholfield-Hatchett, Inc., 7017 E. Kellogg, Wichita, KS 67207

AGENT: Non Listed

LEGAL DESCRIPTION: The east 47 feet of Lot 5 and the west 9 feet of Lot 6, Block 10, Eastridge Addition, Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of ZON 2003-09 and is being dedicated for complete access control along Orme Street.

Planning Staff recommends that the Dedication be accepted.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **GAROFALO** seconded the motion, and it carried (13-0).

5-1. VAC2003-38 – Request to Vacate a Platted Five-Foot Utility Easement, located on the northeast corner of the Meridian and Second Street intersection.

OWNER/APPLICANT: Ronn Houtz

LEGAL DESCRIPTION: The platted 5-foot utility easement located on the northwest property line of Lot 1, Stephan Addition, Wichita, Sedgwick County Kansas.

LOCATION: Generally located on the northeast corner of the Meridian Avenue – 2nd Street intersection, 300 North Meridian.

REASON FOR REQUEST: Future use of property: garage

CURRENT ZONING: Subject property is zoned "LC" Limited Commercial. Properties to the north, east and south are zoned "SF-5" Single-family residential. Properties to the west are zoned "TF-3" duplex residential.

The applicant is requesting consideration for the vacation of the platted 5-foot utility easement as recorded on Lots 1, Stephan Addition. The applicants propose to build a garage. The Stephan Addition was recorded with the Register of Deeds 11-1-1973, at that time 20-feet of ROW was dedicated to Meridian Avenue and 2.5-feet of ROW was dedicated to the alley where the property abutted it.

There are no water or sewer in the easement proposed for vacation. There will be no need for the easement to be used for any future water or sewer lines.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works and other utility representatives, Planning Staff recommends approval to vacate the platted easement as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time July 31, 2003 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

- B. Therefore, the vacation of the portion of the platted easement described in the petition should be approved with conditions;
1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 2. All improvements shall be according to City Standards.
 3. Traffic requires dedication of 5-feet of sidewalk easement along 2nd Street and dedication 10-foot of sidewalk easement along Meridian Avenue.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (2) All improvements shall be according to City Standards.
- (3) Traffic requires dedication of 5-feet of sidewalk easement along 2nd Street and dedication 10-foot of sidewalk easement along Meridian Avenue.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (13-0).

5-2. VAC2003-39 – Request to Vacate a Platted 20-Foot Alley, located between Mead and Santa fe and Eighth Street and Murdock.

OWNER/APPLICANT: Fred Long
Safelite Auto Glass c/o Daniel Dufresne

AGENT: J Brain Foster

LEGAL DESCRIPTION: That part of the alley as dedicated in the Supplemental Plat to Jones' 1st Addition of Wichita, Sedgwick County, Kansas, abutting Lots G & 2-14, even, the Supplemental Plat to Jones' 1st Addition on its south side and Lot 18, the Supplemental Plat to Jones' 1st Addition on its north side.

LOCATION: North of Murdock Avenue and between Santa Fe Avenue (west) and Mead Avenue (east).

REASON FOR REQUEST: Future development of site

CURRENT ZONING: Site and surrounding properties are zoned "LI" Limited Industrial

The applicants are requesting to vacate platted 20-foot alley right-of-way for the future development of the north lot. There is sewer in the alley. The applicants have contacted the Traffic Engineer and the Fire Department and the vacation of the alley would not impact either traffic or emergency service to the area. The alley, Murdock and Mead are not improved ROW. There are no platted setbacks, current setbacks would remain in effect and move with the adjusted property line; 0-foot side yard setback & 20-foot front yard setback. Reversion rights would go ½ the width to the north property and ½ the width to the south property. All abutting property owners have signed the petition and the application to vacate.

The platted alley is recorded on the Supplemental Plat to Jones' 1st Addition of Wichita, Sedgwick County, Kansas. The Supplemental Plat to Jones' 1st Addition was recorded 12-14-1883.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works and other utility representatives, Planning Staff recommends approval to vacate the platted alley as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time July 31, 2003 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted alley and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted alley described in the petition should be approved with conditions;
1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 2. All improvements shall be according to City Standards.
 3. Retain the 20-foot platted alley as an easement.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (2) All improvements shall be according to City Standards.
- (3) Retain the 20-foot platted alley as an easement.

GAROFALO On Item 5-2 I wanted to know if the Fire Department had any input on closing the alley?

LONGNECKER The Fire Department did look at the closure of this alley and they did not have any objection to closing the alley.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (13-0).

7. **Case No.: ZON2003-39** – Integrated Healthcare Systems Inc., Ralph A. Lanzrath Revocable Trust, Mary K. Lanzrath Revocable Trust request Zone change from "SF-5" Single-Family Residential to "GO" General Office on property described as;

Beginning at a point on the west line of the Northeast Quarter of Section 10, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, said point being 1535 feet south of the northwest corner of said Northeast Quarter; thence South, 678 feet to a point 443 feet north of the southwest corner of said Northeast Quarter; thence southeast to a point 690 feet east and 145 feet north of the southwest corner of said Northeast Quarter; thence south, parallel with the west line of said Northeast Quarter, 145 feet to the south line of said Northeast Quarter; thence east, 170.2 feet more or less to the center of the growing hedge; thence north, 1121.2 feet more or less to a point 1535 feet south of the north line of said Northeast Quarter; thence west, 860.96 feet to the point of beginning TOGETHER WITH Lots 4 and 5, Block 1, Lanzrath Addition to Sedgwick County, Kansas. Generally located Southeast of the 21st Street North – K-96 interchange

BACKGROUND: The applicant requests a zone change from "SF-5" Single-Family Residential to "GO" General Office on Lots 4 & 5, Block 1, Lanzrath Addition and abutting unplatted tracts. The subject properties are located approximately 900-feet south of the 21st Street North Wawona intersection, along the west side of Wawona Street. The applicant proposes to develop the property into medical services. Current development on portions of the site includes three single-family residential houses, two on the northern

platted portion of the site and the third, south of the other two houses, on an unplatted tract. These houses will be removed for redevelopment of the site.

The area around the site is moving from a rural character and uses to urban scale single-family subdivisions and three undeveloped "LC" zoned properties with CUP overlays. The development exceptions in the area are two recently completed large church complexes, a private school (all institutional uses) and two cemeteries.

The property abutting the north side of the site and having frontage on 21st Street North is zoned (ZON2001-24) "LC" Limited Commercial and has a CUP (DP-256) overlay on it. This property is not developed. North of Wawona are the two large church complexes, Messiah Baptist and the Church of the Magdalene. The property east of the site and across Wawona Street is zoned "SF-5". The private school, Trinity Academy, and its playing fields/grounds occupy most of this area. There is also a single-family residential house east of the site and the Water Department has a small facility on the southern portion of the east area. The owner of the house is protesting the proposed rezoning. The Burlington Northern right-of-way abuts the south end of the site. Properties south of the railroad ROW are zoned "SF-5", with the east portion developed as a single-family subdivision. The other property south of the site is owned by the same group, which owns Lakeview Cemetery. The cemetery development has not extended to the site's south side. K-96 is the west boundary of the site. West of K-96, property is zoned "SF-5" and "SF-20" single-family residential. These properties are either not developed or are part of the Kensington Gardens cemetery.

Any development on the subject property will be required to meet screening, compatibility standards and landscaping. Improvements to Wawona Street will have to be made in anticipation of the increase of traffic. Drainage plans will need to be reviewed and approved by the Public Works Engineer. The applicant has submitted a preliminary plat and the traffic and drainage issues will be addressed during platting.

CASE HISTORY: A portion of the subject properties, Lots 4 & 5, Block 1, are platted as a part of the Lanzrath Addition, which was recorded December 7, 1977.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC"	Undeveloped
	"SF-5"	Churches
SOUTH:	"SF-5"	Cemetery & single-family residential houses
EAST:	"SF-5"	School & playing fields, single-family residence and single-family residential houses
WEST:	"SF-5"	K-96 Highway, undeveloped and cemetery
	"SF-20"	

PUBLIC SERVICES: The site has access to 21st Street North via Wawona Street. 21st Street is currently a two-lane arterial with a turn lane and a decel lane currently being constructed along its north side, where traffic goes in and out of the church complexes. 21st Street North is projected to ultimately become a 5 lane arterial at this location, but no CIP money has been projected up to 2009. Tentative CIP in 2010. Current traffic volumes, at the 21st Street North – K-96 interchange are approximately 9,834 ATD on the east side and 5,130 ATD on the west side. The 2030 Transportation Plan estimates that traffic volumes on Central and Hillside will increase to approximately 36,600 vehicles per day. Wawona is a dirt road for approximately ¾ of its length. The Water Department improved it to an asphalt and curbed cul-de-sac for its last ¼, as it approached the Water Department's facility. A bike path winds along K-96 on the western edge of the proposed development. Water and sewer are available.

CONFORMANCE TO PLANS/POLICIES: Commercial location guidelines contained in the 2002 update of the *Wichita-Sedgwick County Comprehensive Plan* indicate that commercial sites should: be located adjacent to arterial streets or major thoroughfares; be coordinated with mass transit routes, high density residential, employment or other intensive uses; have site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential uses; be located in compact clusters or nodes versus extended strip development; and be located in areas of similar development, and where traffic patterns, land uses and utilities can support such development. The *Wichita Land Use Guide* depicts this site as appropriate for commercial uses.

RECOMMENDATION: Based upon information available prior to the public hearing Staff recommends APPROVAL of "GO" zoning subject to platting within a year:

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The area is on the northeast edge of the City of Wichita and is changing from rural uses and character to urban scale single-family residential development and, as yet, undeveloped "LC" properties along 21st Street North. The "LC" zoned properties all are larger than 6-acres and have CUP overlays. The two large church complexes on the north side of 21st Street are recent developments, which sit opposite the Trinity Academy school grounds. The four existing single-family homes, three on site and the other immediate east of the site, are isolated from the other single-family residential subdivisions in the area by the churches, Trinity Academy, K-96 and land owned by a cemetery. The three houses on site will be removed, which will further isolate the remaining residence
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is zoned "SF-5" Single-Family Residential, and is currently developed with three (3) single-family residences on approximately 5-6 acre lots/tracts. All the houses appear to be in good condition and are occupied. The property could continue to be used as zoned. Development of more single-family residences on the property, without subdividing the existing developed lots/tracts, would be confined to the remaining approximately 10 acres. The institutional use to the east, the commercial CUP on the north and K-96 on the site's west side have decreased the site's value as possible single-family residential development

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance will limit noise, lighting, and other activity from the remaining isolated single-family residence. However, the impact of the scale of the non-residential development around this remaining single-family residence will have a negative impact on this remaining single-family residence. The removal of the three houses on site will further isolate the remaining residence.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is in conformance with the Wichita Land Use Guide of the *2002 Update to the Wichita-Sedgwick County Comprehensive Plan*.
5. Impact of the proposed development on community facilities: Traffic increases can be anticipated by the medical services development in the range of up to 5,000 cars a day. Improvements as recommended by Staff during the platting of the site can address the impact of the anticipated increase in traffic.

BILL LONGNECKER, Planning staff presented the staff report.

COULTER Is that parcel in the CUP? Just north, is that some kind of retail or medical use complex?

LONGNECKER It has some restrictions on some of the more intense Limited Commercial uses, but it will have retail and office uses. It has not been developed yet, but there is equipment on the site right now.

GAROFALO Will you point out where on the map, where the residences are of the people that are protesting.

LONGNECKER Points on map. Here is the residence on the east side of Wawona.

GAROFALO Are all those residences on the site occupied?

LONGNECKER Yes, and they are in good shape.

MCKAY The protest residence, how do they get access now to their place?

LONGNECKER Access is through Wawona.

MCKAY There is no access to the east off this property?

LONGNECKER No.

GREG ALLISON MKEC ENGINEERING, Wichita Clinic went through an extensive review of sites and selected this site and as part of that selections one of the things we talked about was meeting with neighbors and so forth. We knew the neighbor on the east side would probably be something we would have to deal with, and we have spoken with him, and have come to an understanding to date that would remove his protest, and we will let him speak to that.

DALE SMITH, 1960 Wawona, I wrote you a letter. Today we have begun negotiations with the Wichita Clinic and as part of the negotiations I have agreed that I will remove my protest from the property. We still believe that the street should be relocated in the process, but we believe that it is likely that we can come to an agreement.

BARFIELD There is no further residential development taking place in this area?

LONGNECKER There is single-family residential going up north of the churches, which are north of 21st Street, but there is no other residential development going on either side of Wawona. The cemetery south of the site has prevented development of single family residential.

BARFIELD What is the zoning on that property?

LONGNECKER The zoning is SF-5.

MOTION: To approve, subject to staff comments and citing the findings in their report.

DUNLAP moved, COULTER seconded the motion, and it carried (13-0).

8. **Case No.: CON2003-27** – Laurence W. & Patricia A. Kemp (owners/applicants) request Conditional Use to permit an accessory apartment above a detached garage on property zoned “SF-5” Single-Family Residential on property described as;

Lot 1, Block A, Levitt's Addition to Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of 9th Street North and Battin

BACKGROUND: The applicant is requesting a Conditional Use to allow an accessory apartment on a 1.3 acre platted lot zoned “SF-5” Single Family and located at the northeast corner of 9th Street North and Battin. The applicant proposes to use the second story of a recently constructed detached garage as an accessory apartment.

An accessory apartment is defined as a dwelling unit that may be wholly within or detached from a principal single-family dwelling unit. A dwelling unit includes provisions for sleeping, cooking, eating and sanitation. A Conditional Use permit is required for an accessory apartment in the "SF-5" Single Family zoning district. Section III-D.6.a. of the Unified Zoning Code has the following requirements for an accessory apartment:

- (a) a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling;
- (b) the appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood;
- (c) the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling, including that it shall not be subdivided or sold as a condominium; and
- (d) water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling.

The Conditional Use request meets these Unified Zoning Code requirements.

The applicant submitted the attached site plan illustrating the location of the detached garage with the proposed accessory apartment to be located on the second floor. The accessory apartment will be located behind the house will be screened from adjoining properties by existing mature trees.

The character of the surrounding area is residential. All properties surrounding the subject property are zoned "SF-5" Single Family or "TF-3" Two Family and are developed with single family residences. The properties along Battin, which is a one block long cul-de-sac north of 9th Street, are developed differently than the remainder of the surrounding properties in that they are larger lots, have larger houses, and are separated from the remainder of the neighborhood by a pond and mature trees. Given the size of the subject property and its separation and screening from the remainder of the neighborhood, the proposed accessory apartment is compatible with the zoning, uses, and character of the neighborhood.

CASE HISTORY: The property is platted as Lot 1, Block A, Levitt's Addition, which was recorded January 18, 1950.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5" Single-family residences
SOUTH: "SF-5" Single-family residences
EAST: "SF-5" Single-family residences
WEST: "TF-3" Single-family residences

PUBLIC SERVICES: Access to the subject property is from Battin, an unimproved residential street. The subject property is connected to public water and sewer.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide of the Comprehensive Plan designates this area as appropriate "low density residential" development. The policies of the Unified Zoning Code allow one accessory apartment to be associated with a principle dwelling as a "Conditional Use" if the proposed use is compatible with the principle dwelling, is in character with the surrounding residential development, is accessory to the main structure, remains in a single ownership, and obtains water and sewer service from the main dwelling hook-up.

RECOMMENDATION: Based upon information available prior to the public hearing, Staff recommends that the request be **APPROVED, subject to the following conditions:**

1. The accessory apartment shall be subject to all requirements of Section III-D.6.a. of the Unified Zoning Code.
2. The applicant shall obtain all applicable permits, including but not limited to: building, health, and zoning.
3. The site shall be developed in general conformance with the approved site plan.
4. Construction of improvements shall be completed within one year of approval.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

The staff's recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The character of the surrounding area is residential. All properties surrounding the subject property are zoned "SF-5" Single Family or "TF-3" Two Family and are developed with single family residences. Given the size of the subject property and its separation and screening from the remainder of the neighborhood, the proposed use is compatible with the zoning, uses, and character of the neighborhood.
2. **The suitability of the subject property for the uses to which it has been restricted:** Accessory apartments are allowed as a "Conditional Use" in "SF-5" provided the applicant and the site meet the specified criteria. The applicant and the site meet

the criteria so long as the accessory apartment remains subordinate in size and remains as a single hook-up for water and sewer services.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects on surrounding properties should be minimized by the large size of the lot and the existing mature trees that screen the structure from adjacent properties. The placement of the accessory apartment within the garage generously meets zoning setback requirements.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Unified Zoning Code makes specific provision for accessory apartments in "SF-5". This application complies with all the provisions outlined in the UZC for accessory apartments.
5. Impact of the proposed development on community facilities: The request should have a minimal impact on community facilities.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **MARNELL** seconded the motion, and it carried (13-0).

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9. **Case No.: CON2003-30** – John Brown (owner); Sanford Roberts (agent) Request Conditional Use to permit garden center on property zoned LC" Limited Commercial on property described as;

Beginning at a point 107.80 feet North of the Southeast corner of Lot 1, Ruth Addition to Wichita, Sedgwick County, Kansas, thence West 180.06 feet, thence North 141.67 feet, thence East 179.97 feet thence South 142.13 feet to the point of beginning. Generally located northeast of the Bonnie Brae- Kellogg Drive intersection

BACKGROUND: The applicant is requesting a Conditional Use to operate a nursery and garden center for its business, Nature's Way, on property zoned "LC" Limited Commercial. The applicant currently operates Nature's Way on a facility located in the same vicinity. However, the existing site has been acquired for Kellogg freeway expansion, and the property remaining after the freeway/access road construction is inadequate for his business.

The applicant is seeking to move his business two blocks eastward onto a larger residual property. The proposed site is located on the north side of Kellogg Drive, east of Bonnie Brae. Gypsum Creek is the eastern boundary of the site. Bonnie Brae, a single-family residential neighborhood is located to the north.

The site plan shows the business reconfiguring the existing building on the site for his interior store facilities and having outdoor display space to the east and north of the building. The interior building area is 4,590 square feet. The site plan designates approximately 4,000 square feet for outdoor display and 1,000 square feet for outdoor storage.

The site plan appears to meet parking requirements of the Unified Zoning Code (UZC), but final calculations will be determined during the building permit review. Also, parking requirements can be adjusted by MAPC by either decreasing or increasing the parking based on specific site use conditions as part of the Conditional Use review per UZC Art. III, Sec. III-D.6.z(10) (see attached). In this case, it is recommended by staff that parking needs for this site would be anticipated to be at or slightly below the UZC requirements and the site plan should provide at least 90 percent of the requirements per Code. This would allow a reduction of about three spaces from the anticipated level of 36 spaces.

The applicant proposes a wrought iron fence that is six feet in height to enclose the outdoor display and storage space. Landscaping is shown along Kellogg Drive and buffer trees are located along the northern property line. Also, an existing six-foot wood fence is located along the northern property line.

The Unified Zoning Code contains 11 Supplementary Use Regulations (see attached) for outdoor nurseries and garden centers located on property zoned "LC" Limited Commercial. The applicant proposes a modification to one of the Supplementary Use Regulations. Section III-D.6.z(3) requires a 25-foot setback from public right-of-way for the outdoor display area; however, the applicant proposes a setback of seven feet for the outdoor display area, with a wrought iron fence surrounding the display area. A Supplementary Use Regulation can be modified by the City Council upon receiving a favorable recommendation from the MAPC. Planning staff recommends the proposed modification of this requirement for the fenced display area since the fence will ensure the display does not extend to the right-of-way and since other relocation projects along Kellogg Drive have been granted relief on landscaping/setback type of requirements due to the right-of-way acquisition impacts.

As shown on existing FEMA maps, the eastern portion of the lot may have been within the floodway and the remainder of the lot was within the 100-year floodplain. However, a map amendment is being processed and should be in effect in approximately six months. This map amendment removes the property from the floodway, and only a small portion of the existing parking in the southeast corner of the site would remain in the 100-year floodplain.

CASE HISTORY: The property a portion of Lot 1, Ruth Addition, recorded July 15, 1959.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5"	Single-family residences
SOUTH: "LC", "GC"	Retail, vehicle sales
EAST: "SF-5"; "LC"	Gypsum Creek, vacant retail site
WEST: "LC"	Vacant retail site

PUBLIC SERVICES: The subject property will have access to Kellogg from the Kellogg Drive frontage road. The side streets are blocked along the northern edge of the commercial tracts to prevent commercial traffic from the site traveling through the Bonnie Brae residential neighborhood to the north. Other normal public services are available.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The request conforms to the Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan. The Unified Zoning Code contains 11 Supplementary Use Regulations for nurseries and gardens centers located in the "LC" Limited Commercial zoning district. The request conforms to all the Supplementary Use Regulations except the 25-foot setback for outdoor display that must be approved by the Wichita City Council.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The seasonal nursery and garden center shall conform to all requirements of Section III-D.6.z. of the Unified Zoning Code, except that a setback of seven feet for the fenced outdoor display area shall be allowed along Kellogg Drive.
2. The area devoted to outdoor storage shall be screened from the adjoining residential neighborhood with a solid fence in compliance with the UZC screening standards (Art. IV, Sec. IV-3) at least six but not more than eight feet in height along the northern property line, and shall be enclosed within the wrought iron fenced area designated on the site plan. No materials except live plants and garden ornaments such as trellises that exceed this height shall be stored higher than the height of the screening fence, and the outdoor storage area shall be screened from view of Kellogg Drive. Pots, timbers, mulch, rock materials and similar non-living materials shall not be stored higher than the height of the fence.
3. The applicant shall obtain all applicable permits, including but not limited to: building, health, and zoning. Parking shall be allowed to be reduced to 90 percent of total UZC parking requirements, based on UZC Art. III, Sec. III-D.6.z.(10).
4. The site shall be developed in general conformance with the approved site plan.
5. Construction of improvements shall be completed within one year of approval by the appropriate governing body.
6. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area to the south, east and west is zoned "LC" Limited Commercial and "GC" General Commercial and is developed with similar retail and commercial uses. The area to the north is zoned "SF-5" Single-family Residential and developed with single-family residences. The request is consistent with the zoning, uses, and character of area to the east, south and west.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial and is suitable for other "LC" type of uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The screening, lighting, and compatibility standards of the Unified Zoning Code, including but not limited to the specific restrictions on lighting and noise of the supplemental regulations for nursery and garden center, and the buffer requirements of the Landscape Ordinance should limit noise, lighting, and other activity from adversely impacting residential area to the north.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The request conforms to the Land Use Guide and Commercial Locational Guidelines. The Unified Zoning Code contains 11 Supplementary Use Regulations for nurseries and gardens centers located in the "LC" Limited Commercial zoning district. The request conforms to all but one of the Supplementary Use Regulations.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **MARNELL** seconded the motion, and it carried (13-0).

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10. **Case No.: CUP2003-39 DP183 Amendment #11** – K-DA Inc. c/o Norma J. Davis (owner/applicant); Baughman Company c/o Terry Smythe (agent) Request Amendment to The Davis Moore Community Unit Plan on property described as;

Lot 1, Davis-Moore 5th Addition, Wichita, Kansas, Sedgwick County, Kansas
AND
Lot 1, Block 1, Davis-Moore 13th Addition, Wichita, Sedgwick County, Kansas
AND
The East 130 feet of the West 140 feet of Lot 2, Block A, Hudson Addition to
Wichita, Sedgwick County, Kansas. Generally located south of Kellogg and east of Edgemoor

BACKGROUND: The applicant requests an Amendment to DP-183 Davis Moore CUP to increase the size of the CUP to include additional property. The subject property is Lot 2, Block A, Hudson Addition, is zoned "LC" Limited Commercial, and is located south of Kellogg and east of Edgemoor. The subject property formerly was developed with an Arby's restaurant. The applicant owns the surrounding properties, which primarily are zoned "LC" Limited Commercial and permit vehicle sales and associated uses through the provisions of DP-183.

The applicant proposes to use the subject property for vehicles sales as illustrated by the attached site plan. Vehicle sales may be permitted on property zoned "LC" Limited Commercial with approval of a CUP. The applicant requests that the existing provisions of DP-183 apply to the subject property (see attached CUP for provisions).

The surrounding area is characterized primarily by regional commercial uses along the Kellogg corridor. With the exception of properties across Kellogg to the north, all surrounding properties are zoned "LC" Limited Commercial or "GC" General Commercial and are used for vehicle sales and vehicle-related uses. The properties to the north across Kellogg are zoned "SF-5" Single Family and are developed with single-family residences.

CASE HISTORY: The subject property was platted as Lot 2, Block A, Hudson Addition on November 24, 1967. The zoning of the subject property was changed from "A" Two-Family to "LC" Light Commercial on November 30, 1967. A building permit for the Arby's restaurant was issued on October 27, 1978. A demolition permit for the Arby's restaurant was issued on May 27, 2003. DP-183 was approved March 29, 1988 and has been amended 10 times, primarily to permit the expansion of the Davis-Moore vehicle dealerships.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5"	Single-family residences
SOUTH:	"LC"	Vehicle sales
EAST:	"LC"	Vehicle sales
WEST:	"LC"	Vehicle sales

PUBLIC SERVICES: The subject property has access to Kellogg Drive, an access road to the Kellogg Freeway. Planning staff estimates that the proposed development will decrease the amount of traffic generated by the subject property in comparison to the previous drive-thru restaurant; therefore, the Access Management Policy indicates that the applicant does not need to prepare a traffic impact analysis. The subject property is currently served by municipal water and sewer service.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The request conforms with the Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The development of this property shall proceed in accordance with the approved development plan, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
2. Any major changes in the development plan shall be submitted to the Planning Commission for consideration.
3. The applicant shall submit four 24" x 36" folded copies and one 11" x 17" copy of the PUD to the Metropolitan Area Planning Department within 60 days after approval, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized primarily by regional commercial uses along the Kellogg corridor. With the exception of properties across Kellogg to the north, all surrounding properties are zoned "LC" Limited Commercial or "GC" General Commercial and are used for vehicle sales and vehicle-related uses. The request is consistent with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial, and is currently vacant. The proposed vehicle sales lot may be permitted in the "LC" Limited Commercial zoning district with approval of the requested CUP amendment.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The existing provisions of DP-183 should limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The request conforms with the Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **MARNELL** seconded the motion, and it carried (13-0).

The Metropolitan Area Planning Department informally adjourned at 2:05 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2003.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)